IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.5355 OF 2003

Ms.Deshmukh i/b N.P.Deshpande for the Petitioner.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 21st September,2005

P.C.:

1. Heard finally in view of the notice of final disposal issued by the Court.

2. The order impugned in the petition is an order by which the Appellate Court has declined to condone the delay in filing the appeal. Perusal of the application filed by the Petitioner for condonation of delay and the order passed by the Appellate Court shows that no fault can be found with the Appellate Court finding that the Appellant was most casual about

filing the appeal. But considering that the appeal of the petitioner is a substantive appeal against the decree passed by the trial court and that the Petitioner is willing to pay as and by way of costs of this petition R.1,000/- per Respondent, in my opinion, delay involved in filing the appeal deserves to be condoned. In my opinion following order would meet the ends of justice.

O R D E R

(i) The order impugned in the petition is set aside. The application for condonation of delay in filing the appeal being Misc.Application No.597 of 2002 is allowed, subject to the condition that within a period of three weeks from today the Petitioners deposit in the Appellate Court Rs.17,000/-;

(ii) If the amount of costs is not deposited within the aforesaid time, then this petition shall be treated as dismissed;

(iii) In case the amount is deposited, the Appellate Court shall permit each Respondent in this Writ Petition to withdraw Rs.1000/- from the amount;

(iv) Record of the petition shows that all the Respondents in the petition are not served, still I am passing this order. Therefore, if any of the Respondents who are not served feels aggrieved by this order shall be at liberty to move this court for modification or cancellation of this order.

(v) Petition disposed of.

....